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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,034	12/04/2000	Cheryl A. Pederson	56094USA1A.002	4710
32692	7590	06/20/2006	EXAMINER	
3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL, MN 55133-3427				KOPPIKAR, VIVEK D
ART UNIT		PAPER NUMBER		
				3626

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/729,034	PEDERSON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vivek D. Koppikar	3626	

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 10 June 2004.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 12-32 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 12-32 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 11/18/04.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Status of the Application***

1. Claims 12-32 have been examined in this application. This is a Final Office Action. The Information Disclosure Statement (IDS) statement filed on November 18, 2004 has also been acknowledged.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 12-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mangram et al., ‘Guideline for prevention of surgical site infection’ (hereinafter Guidelines) in view of Ormond-Walshe, Sarah, “Computerized databases in infection control” (hereinafter Walshe) and in further view of US Patent Number 6,662,081 to Jacober.

(A) As per claim 12-13, Guidelines discloses a method for managing the occurrence or risk of surgical site infection incident to a surgical procedure (Guidelines: pages 100-120), the method comprising:

(a) identifies a plurality of stages (mapping) of operative care, including at least a preoperative stage, an intraoperative stage, and a postoperative stage (Guidelines: page 98);  
(b) identifies one or more points-of-care within each identified stage of operative care(Guidelines: page 98);

(c) for each point-of-care, identifies one or a plurality of sources of measurable risk of surgical site infection (Guidelines: page 98);

(d) for identified surgical site infection risks, identifying at least one practice for either or both managing or reducing the risks, either individually for each risk or collectively for more than one risk (Guidelines: pages 106-116)

Guidelines do not explicitly disclose that the identified practice or practices within each point-of-care to provide a set of sequential practices throughout each of the stages of operative care (pages 100-120)

Guidelines does not explicitly disclose

Aligning the practices in a manner that provides a desired management of the overall occurrence or risk of surgical site infection. However, Walshe discloses aligning the practices in a manner that provides a desired management (monitoring) of the overall occurrence or risk of surgical site infection (i.e. establishment of surveillance and control programs was strongly associated with reductions ...)(page 3). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the aforementioned limitation as disclosed by Walshe within Guidelines for the motivation of reducing infection rates (page 3).

Guidelines and Walshe does not explicitly disclose that for each of the compliance indicators, generating a flag when a given health care practice is not in compliance with a rule to align the health care practices to the rule, however, this feature is well known in the art as evidenced by Jacober (Claims 32 and 35). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have modified the system of Guidelines in view of

Walshe with the aforementioned features from Jacober with the motivation of having a means of displaying a non-compliance message, as recited in Jacober (Col. 2, Ln. 35-39).

(B) As per claims 14-21, these claims are rejected in the same manner as set forth in the Office Action dated March 21, 2004 which is incorporated herein by reference.

(C) As per claim 22, Guidelines discloses a method for managing risks for surgical site infections incident to a surgical procedure, the method comprising:

evaluating a practice that poses an infection risk during a stage or the surgical procedure (Guidelines: Page 106-116);

Guidelines does not disclose storing data indicative of the practice as executed by one or more persons involved with the surgical procedures, however, this feature is taught by Walshe (Walshe: Page 3, Paragraph 1). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the aforementioned limitation as disclosed by Walshe within Guidelines for the motivation of developing an enhanced means of reducing infection rates (page 3).

Guidelines in view of Walshe does not teach a step of identifying when the data indicative of the practice is not in compliance with a rule established for the practice, however, this feature is well known in the art as evidenced by Jacober (Claims 32 and 35). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have modified the system of Guidelines in view of Walshe with the aforementioned features from Jacober with the motivation of having a means of displaying a non-compliance message, as recited in Jacober (Col. 2, Ln. 35-39).

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(D) As per claim 23, in the combined method of Guidelines in view of Walshe and Jacober the step of identifying when the data indicative of the practice is not in compliance with the rule comprises generating a flag for the data (Jacob: Claims 32 and 35). The motivation for making this modification to the method of guidelines is the same as set forth above in the rejection of claim 22.

(E) As per claims 24-25, in the combined method of Guidelines in view of Walshe and Jacober further comprises a step of prompting medical personnel to take further action when the flag is generated (Jacob: Claims 32-35) and the flag is cleared when the further action is taken (Jacob: Claim 34). The motivation for making this modification to the method of guidelines is the same as set forth above in the rejection of claim 22. (Note: In Jacober the medical personnel takes further action by sliding the tray of the medication dispenser to remove the medication (Claim 32)).

(F) As per claims 26-32, these claims repeat features previously addressed in the rejection of claims 12-25 and are rejected on the same basis.

***Response to Arguments***

4. Applicant's arguments with respect to claim 12-32 have been considered but are moot in view of the new grounds of rejection.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquire concerning this communication or earlier communications from the examiner should be directed to Vivek Koppikar, whose telephone number is (571) 272-5109. The examiner can normally be reached from Monday to Friday between 8 AM and 4:30 PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached at (571) 272-6776. The fax telephone numbers for this group are either (571) 273-8300 or (703) 872-9326 (for official communications including After Final communications labeled "Box AF").

Another resource that is available to applicants is the Patent Application Information Retrieval (PAIR). Information regarding the status of an application can be obtained from the (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAX. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, please feel free to contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,

Vivek Koppikar

5/17/2006

  
JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER